

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2019 MAR 21 PM 4:42

CLERK

BY 
DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

ONE HUNDRED TWENTY THOUSAND,
FIVE HUNDRED NINETY FIVE DOLLARS
AND FORTY CENTS, MORE OR LESS,
IN U.S. CURRENCY (\$120,595.40),

Defendant.

Case No:

2:19-cv-45

VERIFIED COMPLAINT FOR FORFEITURE IN REM

Plaintiff, the United States of America (the “United States”), by and through its attorney, Christina E. Nolan, United States Attorney for the District of Vermont, brings this verified complaint and alleges, upon information and belief, as follows in accordance with Rule G(2) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions:

NATURE OF THE ACTION

1. This is a civil action *in rem* to forfeit and condemn to the use and benefit of the United States all right, title and interest in one hundred twenty thousand, five hundred ninety five dollars and forty cents, more or less, in U.S. currency (\$120,595.40) (the “Defendant Property”), pursuant to 18 U.S.C. § 981(a)(1)(C), as proceeds traceable to violations of 18 U.S.C. §§ 1028(a)(7) and 1030(a)(4), namely fraud and related activity in connection with identification documents, authentication features and information, and fraud and related activity in connection with computers.

THE DEFENDANT IN REM

2. The Defendant Property is U.S. Currency totaling \$120,595.40, more or less, which was transferred from Howard Sirvent of Middlesex, Vermont to account number 238678376 in the name of CASEY WILLIAMS DBA DOUGLAS FRUITS LTD. OR TRILINC GLOBAL IMPACT FUND ASIA III LTD OR AK COMMODITIES SA, held at J.P. Morgan Chase Bank (JPMC), in New York, New York, on or about March 21, 2018. The Defendant Property was transferred following electronic communications to Sirvent that falsely purported to change the deposit instructions for completion of a sale of real estate.

3. On December 26, 2018, the Defendant Property was transferred from JPMC account 238678376 into a Court Registry Investment System (CRIS) account held by the District Court for the Southern District of New York, referencing Case/Party: D-NYS-1-18-CV-007168-001.

4. On February 6, 2019, this Court (Hon. John M. Conroy, M.J.) issued a criminal seizure warrant authorizing the United States to maintain custody and control of the Defendant Property, Docket Number 2:19-mc-17. The warrant was served on the clerk's office for the U.S. District Court for the Southern District of New York in a timely fashion, but as of this date, the government has been unable to secure the funds.

JURISDICTION AND VENUE

5. The Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1345 and 1355(a), as this is a civil action commenced by the United States for the recovery and enforcement of a forfeiture under federal law. The Court also has subject-matter jurisdiction pursuant to 18 U.S.C. § 981(a)(1)(C), as the Defendant Property is forfeitable as proceeds traceable to violations of 18 U.S.C. §§ 1028(a)(7) and 1030(a)(4), namely fraud and related

activity in connection with identification documents, authentication features and information and fraud and related activity in connection with computers.

6. The Court has *in rem* jurisdiction over the Property pursuant to 28 U.S.C. §1355(b)(1)(A), as certain acts or omissions giving rise to forfeiture occurred with in this District.

7. Likewise, this District is a proper venue for this action pursuant to 28 U.S.C. §1355(b)(1)(A) because certain acts or omissions giving rise to forfeiture occurred in this District.

BASIS FOR THE FORFEITURE

8. The Defendant Property is subject to forfeiture because it is proceeds traceable to violations of 18 U.S.C. §§ 1028(a)(7) and 1030(a)(4), namely fraud and related activity in connection with identification documents, authentication features and information and fraud and related activity in connection with computers.

STATEMENT OF FACTS

9. In March 2018, Howard Sirvent of Middlesex, Vermont was attempting to purchase a foreclosed residential property located at 41 North Field Street, Montpelier, Vermont. He worked with attorney James Jamele, Esq. on the proposed purchase. Attorney Jamele used email account jamesjamele@charter.net to communicate with Sirvent about the deal.

10. On Wednesday, March 21, 2018, at 9:06:46 AM EDT, Sirvent received an email which appeared to be from Jamele. The email displayed a sender address of

jamesjamele@charter.net and a subject notations “Re: Settlement tax charge.” The email also contained a “reply-to”¹ address of jamesjameleesq@aol.com. The body of the email stated:

Do you mind if I left that on and write you back a check at closing for the tax amount? If not I would need to get the statement re-approved. Also I have attached my wire instructions again. There was a transfer made into my CITIZENS Bank Account yon Monday that has been pending. There was an issues with the transferring bank and my Account has been placed on hold. I’m trying to resolve the issue with my bank. In other to avoid any delay on your closing, kindly send the wire to my Chase Bank Account. When exactly do you intend sending out wire transfer?
Jim Sent from my iPhone.

Attached to the email was a document containing wire instructions identifying JPMC account number 238678376 as the correct payment destination. The document identified James Jamele, Esq. as the wire recipient for funds transfers and provided a contact telephone number of 802-333-0381.

11. In response to the email, Sirvent transferred the Defendant Property according to the instructions on the attached document instead of to James Jamele’s existing account. Sirvent did not realize he had been defrauded until he arrived at Jamele’s office on March 27, 2018 for the property closing and learned the payment had not been received.

12. Neither Sirvent nor Jamele have ever had access to JPMC account number 238678376. Further, Jamele is not associated with either email address jamesjameleesq@aol.com or telephone number 802-333-0381².

¹ According to the Internet Engineering Task Force (IETF), an Internet Standards Organization, Request for Comments (RFC) 2822, the “Reply-To” field indicates the mailbox(es) to which the author of the message suggests that replies be sent. In an email scam, a reply-to field may be used to ensure that any responses go to the actual sender of the message as opposed to the impersonated sender.

² An internet search for the service provider to telephone number 802-333-0381 indicates the number is owned by Bandwidth, a Voice-Over-Internet-Protocol service provider.

13. On December 26, 2018, pursuant to a pending civil suit in the U.S. District Court for the Southern District of New York, the full balance of account number 238678376 in the name of CASEY WILLIAMS DBA DOUGLAS FRUITS LTD. OR TRILINC GLOBAL IMPACT FUND ASIA III LTD OR AK COMMODITIES SA, some \$540,731.10, was transferred into a CRIS account held by the District Court for the Southern District of New York, referencing Case/Party: D-NYS-1-18-CV-007168-001. Based on the records of activity in JPMC account number 238678376, it appears at least the majority of the Defendant Property remained in the account at the time of the transfer to the SDNY CRIS account, and/or the transferred property, as U.S. Currency from the same account, is identical to the Defendant Property.

FIRST CLAIM FOR RELIEF
(Forfeiture Pursuant to 18 U.S.C. § 981(a)(1)(C))

14. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 13 above as if fully set forth herein.

15. Pursuant to 18 U.S.C. § 981(a)(1)(C), any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of 18 U.S.C. §1028 or § 1030, is subject to forfeiture to the United States.

16. Pursuant to 18 U.S.C. § 984(a)(2), in any forfeiture action *in rem* in which the subject property is cash, any identical property found in the same place as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture, so long as the action to forfeit such identical property is commenced within 1 year from the date of the offense that is the basis for the forfeiture.

17. The Defendant Property is personal property which constitutes proceeds traceable to violations of 18 U.S.C. §§ 1028(a)(7) and 1030(a)(4), namely fraud and related activity in connection with identification documents, authentication features and information and fraud and related activity in connection with computers.

18. Accordingly, all right, title and interest in the Defendant Property is subject to forfeiture to the United States pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 984(a).


RELIEF REQUESTED

Wherefore, the United States respectfully requests that: (1) due notice be provided to all parties known or believed to have an interest in, or right against, the Defendant Property, so that such parties may appear and show cause why forfeiture of the Defendant Property should not be decreed; (2) all right, title and interest in the Defendant Property be forfeited and condemned to the use and benefit of the United States; and (3) the United States be granted such other and further relief as the Court deems just and proper.

Dated at Burlington, in the District of Vermont, this 21st day of March, 2019.

Respectfully submitted,

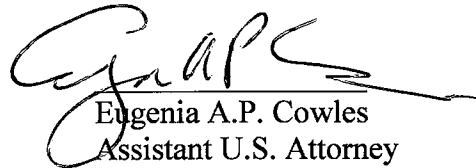
CHRISTINA E. NOLAN
United States Attorney

By: 
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Assistant U.S. Attorney
U.S. Attorney's Office
P.O. Box 570
Burlington, VT 05402-0570
(802) 951-6725
eugenia.cowles@usdoj.gov
Attorney for the Plaintiff

VERIFICATION

I, Eugenia A.P. Cowles, hereby verify and declare under penalty of perjury that I am an attorney employed by the U.S. Department of Justice, U.S. Attorney's Office, Burlington, Vermont, I have read the foregoing complaint and know the contents thereof, and the matters contained therein are true and correct to the best of my knowledge, except those matters that are alleged therein upon information and belief, which matters I believe to be true.

Dated at Burlington, in the District of Vermont, this 21st day of March, 2019.


Eugenia A.P. Cowles
Assistant U.S. Attorney

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Eugenia A. P. Cowles, Assistant U. S. Attorney
11 Elmwood Ave., 3rd Floor, Burlington, VT 05401
802-951-6725

DEFENDANTS

One Hundred Twenty Thousand, Five Hundred Ninety-Five Dollars and Forty Cents, More or Less, in U. S. Currency (\$120,595.40)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 495 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
			SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
18 U.S.C. § 981(a)(1)(C)

Brief description of cause:

Forfeiture of in rem defendant as money derived from computer fraud

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

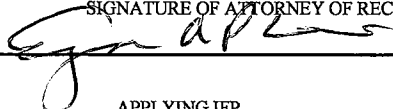
JUDGE Hon. John M. Conroy

DOCKET NUMBER 2:19-mc-17

DATE

3/21/2019

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

1088

2:19-cv-45